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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/594,015	05/02/2008	Gorka Garcia	GB04 0067 US1	7309
65913	7550	04/11/2011		
NXP, B.V. NXP INTELLECTUAL PROPERTY & LICENSING M/S41-SJ 1109 MCKAY DRIVE SAN JOSE, CA 95131				
EXAMINER				
KOSTAK, VICTOR R				
ART UNIT		PAPER NUMBER		
2422				
NOTIFICATION DATE		DELIVERY MODE		
04/11/2011		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ip.department.us@nxp.com

Office Action Summary

Application No.

10/594,015

Applicant(s)

GARCIA ET AL.

Examiner

Victor Kostak

Art Unit

2422

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 February 2011.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-12, 14 and 15 is/are rejected.
- 7) ☒ Claim(s) 5 and 13 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-945)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

1. Applicant's arguments filed on 02/02/11 regarding the rejection based on Tults (and the secondary references) have been fully considered but they are not persuasive. The previous rejections accordingly stand and are presented below, repeated from the last Office action.

Language addressing applicant's arguments is presented in **bold** to assist in distinguishing that text from the copied text.

2. Regarding a first matter, applicant is correct that he has support in the specification for monitored battery level. The objection to the specification has therefore been removed.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 and 9 **stand** rejected under 35 U.S.C. 103(a) as being unpatentable over Tults (5,900,913) in view of Kirkland (5,900,918) or Harris et al. (2002/0021760).

Tults discloses an A/V system (i.e. television) shown in Fig. 1 that receives audio and video broadcast components.

When an operating characteristic of the video component deteriorates (e.g. deflection is not available; col. 2 lines 5-9), an auxiliary component is played regardless (i.e. closed-captioning) and the video component power supply is switched off (col. 4 line 29+).

Tults points out that any auxiliary component may be played instead of closed captioning (e.g. col. 1 lines 30-45), and both Kirkland (col. 6 lines 17-19) and Harris (section [0027])

acknowledge that audio description data is both an auxiliary component and similar to closed caption data.

In view of these express teachings of Tults, Kirkland and Harris, it would therefore have been obvious to one of ordinary skill the art to have audio description data played when the video component is noticeably deteriorated.

Applicant argues that Tults' auxiliary closed-caption display is the result of his TV being switched into standby mode, which results in deflection signals not being generated rather than resulting from a deteriorated signal.

However, Tults expressly states that “it may be desirable to operate a closed caption decoder that is controlled using a deflection signal during a mode of operation when *deflection signals are not available*” (col. 2 lines 5-9).

This language suggests that rather than the user simply switching into standby mode as an option (which causes deflection signals to be disabled), the actual video signal with associated closed-captioning is not in its fully receivable state, so the standby mode is prompted. This language in Tults suggests that the TV signal has worsened to the extent that the sync data of the video signal cannot be fully obtained and may not be available to control deflection. Tults first introduces his system by discussing erroneous video signals that may not provide displayable reproduction (col. 1 line 59+).

This now lesser-quality video/data signal can be considered a deteriorated signal (gradualness of deterioration of course being relative, as applicant realizes, such that a TV signal can deteriorate more drastically and within seconds whereas an ice shelf deteriorates over decades if not centuries, for example).

Applicant further argues that Tults does not switch from video to description audio.

The examiner clearly brought in Kirkland/Harris and the express allowance by Tults to include other data, and audio description data fits that data.

Claims 1 and 9 therefore stand rejected.

As for claims 2 and 10, the operating characteristic of the deflection data being available or not must inherently be monitored to both identify that condition and to switch off the power supply to it.

4. Claims 3, 8 and 11 **stand** rejected under 35 U.S.C. 103(a) as being unpatentable over Tults and Kirkland or Harris, in view of Asai et al. (2002/0000984).

As discussed above, Tults detects a system condition that renders the video reproduction ineffective.

Asai likewise discloses a television receiver (for example: section [0139]) that monitors an operating condition (i.e. battery level) to determine if continued display should be provided (section [0306]).

It would have been obvious to one of ordinary skill in the art to monitor various operations involved in effecting A/V reproduction such as the power supply as expressly disclosed by Asai, in a system that provides audio, video and text display, which both Tults and Asai refrain from happening when the condition is inadequate because the reproduction would not be satisfactory, thereby meeting claims 3 and 11.

As for claim 8, Asai discloses a cell-phone (e.g. Fig. 2A), which would have been obvious to use in Tults as the A/V television receiver since it is a well known and available type of television.

5. Claims 4, 6, 7, 12, 14 and 15 **stand** rejected under 35 U.S.C. 103(a) as being unpatentable over Tults and Kirkland or Harris, in view of Rich (5,758,271).

Rich discloses monitoring plural signal parameters of a radio receiver for its reception quality (noting Fig. 1), including data handling and broadcast quality (e.g. bit-error rate: col. 6 lines 34-37; RSSI: Fig. 4).

It would have been obvious to one of ordinary skill in the art to use any suitable parameter to determine if a video broadcast is acceptable in Tults, such as by monitoring data handling or broadcast quality as disclosed by Rich, such measure yielding predictable results, and thereby meeting claims 4, 6, 12 and 14.

Regarding claims 7 and 15, the bit data of the transmitted signal represents picture data and therefore the bit error rate, so the picture quality monitoring is covered by this data.

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

7. Claims 5 and 13 **remain** allowable over the prior art.

8. **THIS ACTION IS MADE FINAL.** See MPEP § 706.07. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor R. Kostak whose telephone number is (571) 272-7348. The examiner can normally be reached on Monday - Friday from 6:30am-3:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeff Harold can be reached on (571) 272-7519. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Any response to this final action should be mailed to:

Box AF
Commissioner of Patents and Trademarks
P.O. Box 1450
Alexandria, Virginia 22313-1450

Or faxed to:

(571) 273-8300

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Customer Service Office whose telephone number is (703) 308-HELP.

/Victor R. Kostak/
Primary Examiner
Art Unit 2622

VRK

